

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO ex rel.,
STATE ENGINEER, et al.,

Plaintiffs,

vs.

JOHN ABBOTT, et al.,

Defendants.

CIVIL NO. 68-7488 MV/LFG
Rio Santa Cruz Adjudication

and

CIVIL NO. 70-8650 MV/LFG
Rio de Truchas Adjudication

CONSOLIDATED

MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDED DISPOSITION¹

Findings

1. Jaime L. Dawes filed a motion for Stelzner, Winter, Warburton, Flores, Sanchez & Dawes, P.A. to withdraw as counsel of record for the Acequia del Llano de Abeyta ("Abeyta") in this case. [Doc. 2945]. The motion states: (1) they believe they can no longer represent Abeyta in this matter; and (2) Abeyta has been notified of the withdrawal, but has not consented to the withdrawal. Review of the docket shows that no other attorney has entered an appearance on behalf of Abeyta.

2. The Court notified Abeyta that it can only appear in this case with an attorney. The District of New Mexico's Local Rules of Civil Procedure require that a "corporation,

¹Within fourteen (14) days after a party is served with a copy of these findings and recommendations, that party may, pursuant to 28 U.S.C. § 636(b)(1), file written objections to such findings and recommendations. A party must file any objections with the Clerk of the U.S. District Court within the fourteen-day period allowed if that party wants to have appellate review of the findings and recommendations. If no objections are filed, no appellate review will be allowed. See, e.g., Wirsching v. Colorado, 360 F.3d 1191, 1197 (10th Cir. 2004) ("firm waiver" rule followed in Tenth Circuit holds that a party who fails to object to magistrate judge's findings and recommendations in timely manner waives appellate review of both factual and legal questions).

partnership or business entity other than a natural person must be represented by an attorney authorized to practice before this Court.” See D.N.M.LR-Civ. 83.7. If the Court grants Mr. Dawes’ motion to withdraw, and if Abeyta is not represented by a substitute attorney, any filings made by Abeyta may be stricken and default judgment or other sanctions imposed. See D.N.M.LR-Civ. 83.8(c).

3. The Court entered an Order to Show Cause which ordered Abeyta to, within 30 days of entry of the Order to Show Cause, have a federally licensed attorney enter his or her appearance, or show cause why the Court should not dismiss Abeyta’s claims without prejudice for failure to comply with the District of New Mexico’s Local Rule of Civil Procedure that a corporation, partnership or business entity other than a natural person can appear only with an attorney. [Doc. 2947].

4. Abeyta did not timely have a federally licensed attorney enter his or her appearance, or show cause why the Court should not dismiss Abeyta’s claims without prejudice for failure to comply with the District of New Mexico’s Local Rule of Civil Procedure that a corporation, partnership or business entity other than a natural person can appear only with an attorney.

5. The Court granted Stelzner, Winter, Warburton, Flores, Sanchez & Dawes, P.A.’s Motion to Withdraw as Counsel because Abeyta did not comply with the Court’s Order Order to Show Cause.

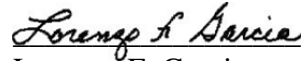
Recommended Disposition

That the Court dismiss Abeyta's claims without prejudice.

The Clerk of the Court shall mail a copy of these Findings and Recommended Disposition
to:

Acequia del Llano de Abeyta
c/o Perry Trujillo
61 Country Road 8
Espanola, NM 87532.

IT IS SO ORDERED.



Lorenzo F. Garcia
United States Magistrate Judge